IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE K.C. BHANU**

**WRIT PETITION NO : 22108 of 2001**

Between:

E.Murali, S/o.E.Narayana,
R/o.H.No.4-8, Yegugonda, Mahaboobnagar District.

**..... PETITIONER**

AND

1 The Registrar, Dr.B.R.Ambedkar Open University,
Road No.46, Jubilee Hills,
Hyderabad.
2 The Asst. Director, Dr.B.R.Ambedkar Open University,
Study Centre, M.V.S.Government Arts & Science College, Mahaboobnagar District.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly in the nature of WRIT OF MANDAMUS declaring the impugned proceedings of the 1st respondent No.81-2/RP/2001-2002, dt;6.10.2001 as communicated by the 2nd respondent by its proceedings No.521/2001, dt;9.10.2001 arbitrary and illegal, unjust with consequential direction to the respondents to continue the Writ Petitioner and regularise him in the post in the Junior Asst.-cum-typist with all consequential attendant benefits in the interest of justice.

**Counsel for the Petitioner: MR.B.NARASIMHA SARMA**

**Counsel for the Respondents: MR.M.RATNA REDDY(SC FOR AP OPEN VARSITY)**

**The Court made the following :**

**The Hon'ble Sri Justice**

**K.C. Bhanu**

**W.P. No. 22108 of 2001**

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**O R D E R**:

Challenging the proceedings No.81-2/RP/2001-2001 dated 6.10.2001 of the 1st respondent as communicated by the 2nd respondent vide proceedings No.521/2001 dated 9.10.2001 as illegal and arbitrary and seeking consequential direction to the respondents to continue the petitioner and regularize him in the post of Junior Assistant-cum-Typist, the present writ petition is filed.

Facts leading to filing of the present writ petition, in brief, are as under:

The petitioner was working as part-time Jr. Assistant-cum-Typist (JACT) in the 2nd respondent office from 1.4.1992 on consolidated pay and the said appointment was ratified by the 1st respondent University. Since he possess the required qualification, he submitted representations to the 1st respondent for regularization and the same were recommended and forwarded by the 2nd respondent. But, he received communication dated 6.10.2001 of the 1st respondent, served by the 2nd respondent on 9.10.2001, dispensing his services with immediate effect. It is stated by the petitioner that he has more than 9 years service as Part-time JACT and therefore the said action of the 1st respondent is illegal and arbitrary. In terms of proceedings of the 1st respondent ratifying his appointment dated 23.9.2002, he is entitled to continue till a

fulltime/regular JACT post. Even the 2nd respondent while recommending his regularization specifically mentioned that the strength of the study center is about 250 students and there is essential requirement to have two full time JACTs at the study center. Hence the present writ petition.

The 1st respondent filed counter stating that the petitioner was appointed as Junior Assistant w.e.f. 1.4.1992 on a consolidated payment of Rs.500/- by the University at the Study Center, Mahaboobnagar as per the availability of the work. Under Section 23 of the University Act, "the University shall not, without the prior approval of the Government divert earmarked funds for other purposes or upgrade any posts or revise the scales of payoff its staff or implement any scheme which involves the contribution from the Government or create a post or posts resulting in a recurring liability on the Government either immediately or in future". Therefore, the Government is the only competent authority to regularize the services of temporary or daily wage employees. In fact, there are no clear vacancies of the posts of Junior Assistants available in the University itself, leave alone in the study centers. The services of the petitioner were engaged purely on temporary part-time basis depending on the workload of the University Study Center and he has no claim whatsoever in asking for absorption in the University. The petitioner was leveled with severe allegations relating to malpractice and irregularities noticed in the study center and a three member committee was constituted for thorough enquiry and the report of the Enquiry Committee suggested to dispense the services of the petitioner and basing on the enquiry committee report and keeping in view the prestige of the University, the services of the petitioner were dispensed with immediate effect vide orders dated 6.10.2001.

It is contended by the learned counsel for the petitioner that there is sufficient workload for the petitioner to assist the Study Center with responsibility; that the petitioner was appointed as a Part-time JACT and without affording any opportunity and without giving

any notice his services have been dispensed by the 1st respondent and therefore the impugned order suffers from serious legal infirmities. Hence he prays to set aside the proceedings of the 1st respondent dated 6.10.2001.

On the other and, learned standing counsel appearing for the respondent-University contended that the petitioner was appointed as a Part-time JACT, therefore, there is no need to give any notice. His services can be terminated at any time without giving notice. Pertaining to certain irregularities noticed by the University Study Center, the University appointed three-member committee which conducted enquiry and submitted a report. There upon, the respondent-University has taken decision to dispense with the services of the petitioner and hence the order under challenge does suffer from any legal infirmities so as to call for interference by this Court.

The petitioner was appointed as Part-time Jr. Assistant-cum-Typist on a consolidated wages of Rs.330/- per month from 1st April, 1992. The said appointment was ratified by the 1st respondent-University vide proceedings dated 23.9.1992. As seen from the proceedings dated 23.9.1992, the appointment of the petitioner was made till the date of joining of full-time regular/daily wages JACT and thereafter the services of the daily wages JACT can be dispensed. The stand taken by the 1st respondent-University is that several allegations which are affecting the functioning of the University came in the Newspaper and the District Collector also brought to the notice of the 1st respondent-University with regard to the malpractice and irregularities. Then the Vice-Chancellor took the matter seriously and ordered enquiry into the allegations by appointing a Three-member committee and the Enquiry Committee submitted its report dated 27.9.2001 opining that in view of the complaints made against the petitioner, his services may be dispensed with immediate effect to safeguard the name and fame of the University. Accepting the said enquiry report, the services of the petitioner were dispensed.

Since the appointment of the petitioner is purely on part-time basis, this court is of the opinion that no notice need be given to the petitioner. No rule or regulation of the respondent-University is brought to the notice that in case of dispensing the services or before dismissal or removal of the Part-time employee of the respondent-University, he is entitled for a notice. Though the petitioner is working for more than 9 years, at the same time some allegations have been brought to the notice of the respondent-University. After ordering for enquiry by Three-member committee and basing on its report the services of the petitioner were dispensed. Therefore, the action of the 1st respondent in issuing the impugned proceedings and also the consequential proceedings issued by the 2nd respondent cannot be said to be illegal or arbitrary or contrary to any of the provisions or regulations or the respondent-University and they do not suffer from any legal infirmities so as to call for interference by this Court.

The writ petition is totally devoid of merit and it is accordingly dismissed and the interim stay granted by this court earlier shall stand vacated. This order, however, will not preclude the respondents from considering the case of the petitioner in any future vacancy on temporary basis.

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**K.C. Bhanu, J.**

**Date: --06—2005.**

MVB.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Registrar, Dr.B.R.Ambedkar Open University,
   Road No.46, Jubilee Hills,
   Hyderabad.
2. The Asst. Director, Dr.B.R.Ambedkar Open University,
   Study Centre, M.V.S.Government Arts & Science College, Mahaboobnagar District.

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